

§ 833(a), Aug. 21, 1974, 88 Stat. 603; Pub. L. 94-482, title I, § 124(b), (c), Oct. 12, 1976, 90 Stat. 2094, 2095; Pub. L. 95-566, § 4, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96-374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, specified the authorized activities of the Secretary of Education in carrying out special programs for students from disadvantaged backgrounds, prior to the general revision of this subpart by Pub. L. 96-374.

Section 1070d-1a, Pub. L. 89-329, title IV, § 417C, as added Pub. L. 99-498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1338, authorized an upward bound program.

A prior section 1070d-1a, Pub. L. 89-329, title IV, § 417C, as added Pub. L. 96-374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1409, authorized an upward bound program, prior to the general revision of this part by Pub. L. 99-498.

Section 1070d-1b, Pub. L. 89-329, title IV, § 417D, as added Pub. L. 99-498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1339; amended Pub. L. 100-50, § 6, June 3, 1987, 101 Stat. 340; Pub. L. 100-418, title VI, § 6271, Aug. 23, 1988, 102 Stat. 1523, related to student support services program.

A prior section 1070d-1b, Pub. L. 89-329, title IV, § 417D, as added Pub. L. 96-374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1410, authorized a special services for disadvantaged students program, prior to the general revision of this part by Pub. L. 99-498.

Section 1070d-1c, Pub. L. 89-329, title IV, § 417E, as added Pub. L. 99-498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1340, authorized an educational opportunity centers program.

A prior section 1070d-1c, Pub. L. 89-329, title IV, § 417E, as added Pub. L. 96-374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1410, authorized an educational opportunity centers program, prior to the general revision of this part by Pub. L. 99-498.

Section 1070d-1d, Pub. L. 89-329, title IV, § 417F, as added Pub. L. 99-498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1341, related to staff development activities.

A prior section 1070d-1d, Pub. L. 89-329, title IV, § 417F, as added Pub. L. 96-374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1411, authorized grants for staff training, prior to the general revision of this part by Pub. L. 99-498.

#### SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

### § 1070d-2. Maintenance and expansion of existing programs

#### (a) Program authority

The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects located at institutions of higher education or at private nonprofit organizations working in cooperation with institutions of higher education.

#### (b) Services provided by high school equivalency program

The services authorized by this subpart for the high school equivalency program include—

- (1) recruitment services to reach persons—
  - (A)(i) who are 16 years of age and over; or
  - (ii) who are beyond the age of compulsory school attendance in the State in which such persons reside and are not enrolled in school;
  - (B)(i) who themselves, or whose immediate family, have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork; or
  - (ii) who are eligible to participate, or have participated within the preceding 2 years, in programs under part C of title I of the Elementary and Secondary Education Act of

1965 [20 U.S.C. 6391 et seq.] or section 3222 of title 29; and

(C) who lack a high school diploma or its equivalent;

(2) educational services which provide instruction designed to help students obtain a general education diploma which meets the guidelines established by the State in which the project is located for high school equivalency;

(3) supportive services which include the following:

(A) personal, vocational, and academic counseling;

(B) placement services designed to place students in a university, college, or junior college program (including preparation for college entrance examinations), or in military service or career positions; and

(C) health services;

(4) information concerning, and assistance in obtaining, available student financial aid;

(5) stipends for high school equivalency program participants;

(6) housing for those enrolled in residential programs;

(7) exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth;

(8) other essential supportive services (such as transportation and child care), as needed to ensure the success of eligible students; and

(9) other activities to improve persistence and retention in postsecondary education.

#### (c) Services provided by college assistance migrant program

(1) Services authorized by this subpart for the college assistance migrant program include—

(A) outreach and recruitment services to reach persons who themselves or whose immediate family have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated or are eligible to participate, in programs under part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] or section 3222 of title 29, and who meet the minimum qualifications for attendance at a college or university;

(B) supportive and instructional services to improve placement, persistence, and retention in postsecondary education, which include:

- (i) personal, academic, career, and economic education or personal finance counseling as an ongoing part of the program;
- (ii) tutoring and academic skill building instruction and assistance;
- (iii) assistance with special admissions;
- (iv) health services; and
- (v) other services as necessary to assist students in completing program requirements;

(C) assistance in obtaining student financial aid which includes, but is not limited to:

- (i) stipends;
- (ii) scholarships;
- (iii) student travel;
- (iv) career oriented work study;

- (v) books and supplies;
- (vi) tuition and fees;
- (vii) room and board; and
- (viii) other assistance necessary to assist students in completing their first year of college;

(D) housing support for students living in institutional facilities and commuting students;

(E) exposure to cultural events, academic programs, and other activities not usually available to migrant youth;

(F) internships; and

(G) other essential supportive services (such as transportation and child care) as necessary to ensure the success of eligible students.

(2) A recipient of a grant to operate a college assistance migrant program under this subpart shall provide followup services for migrant students after such students have completed their first year of college, and shall not use more than 10 percent of such grant for such followup services. Such followup services may include—

(A) monitoring and reporting the academic progress of students who participated in the project during such student's first year of college and during such student's subsequent years in college;

(B) referring such students to on- or off-campus providers of counseling services, academic assistance, or financial aid, and coordinating such services, assistance, and aid with other non-program services, assistance, and aid, including services, assistance, and aid provided by community-based organizations, which may include mentoring and guidance; and

(C) for students attending two-year institutions of higher education, encouraging the students to transfer to four-year institutions of higher education, where appropriate, and monitoring the rate of transfer of such students.

#### **(d) Management plan required**

Each project application shall include a management plan which contains assurances that the grant recipient will coordinate the project, to the extent feasible, with other local, State, and Federal programs to maximize the resources available for migrant students, and that staff shall have a demonstrated knowledge and be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population, and provisions for:

- (1) staff in-service training;
- (2) training and technical assistance;
- (3) staff travel;
- (4) student travel;
- (5) interagency coordination; and
- (6) an evaluation plan.

#### **(e) Five-year grant period; consideration of prior experience**

Except under extraordinary circumstances, the Secretary shall award grants for a 5-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs in accordance with section 1070a-11(c)(2) of this title.

#### **(f) Minimum allocations**

The Secretary shall not allocate an amount less than—

- (1) \$180,000 for each project under the high school equivalency program, and
- (2) \$180,000 for each project under the college assistance migrant program.

#### **(g) Reservation and allocation of funds**

From the amounts made available under subsection (i), the Secretary—

- (1) may reserve not more than a total of  $\frac{1}{2}$  of one percent for outreach activities, technical assistance, and professional development programs relating to the programs under subsection (a);

- (2) for any fiscal year for which the amount appropriated to carry out this section is equal to or greater than \$40,000,000, shall, in awarding grants from the remainder of such amounts—

(A) make available not less than 45 percent of such remainder for the high school equivalency programs and not less than 45 percent of such remainder for the college assistance migrant programs;

(B) award the rest of such remainder for high school equivalency programs or college assistance migrant programs based on the number, quality, and promise of the applications; and

(C) consider the need to provide an equitable geographic distribution of such grants; and

- (3) for any fiscal year for which the amount appropriated to carry out this section is less than \$40,000,000, shall, in awarding grants from the remainder of such amounts make available the same percentage of funds to the high school equivalency program and to the college assistance migrant program as was made available for each such program for the fiscal year preceding the fiscal year for which the grant was made.

#### **(h) Data collection**

The Secretary shall—

- (1) annually collect data on persons receiving services authorized under this subpart regarding such persons' rates of secondary school graduation, entrance into postsecondary education, and completion of postsecondary education, as applicable;

- (2) not less often than once every two years, prepare and submit to the authorizing committees a report based on the most recently available data under paragraph (1); and

- (3) make such report available to the public.

#### **(i) Authorization of appropriations**

For the purpose of making grants and contracts under this section, there are authorized to be appropriated \$75,000,000 for fiscal year 2009 and such sums as may be necessary for the each of the five succeeding fiscal years.

(Pub. L. 89-329, title IV, §418A, as added Pub. L. 99-498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1341; amended Pub. L. 100-50, §7, June 3, 1987, 101 Stat. 340; Pub. L. 102-325, title IV, §405, July 23, 1992, 106 Stat. 507; Pub. L. 103-382, title III, §391(e)(1), (2), Oct. 20, 1994, 108 Stat. 4022; Pub. L.

105-244, title IV, § 408, Oct. 7, 1998, 112 Stat. 1667; Pub. L. 105-277, div. A, § 101(f) [title VIII, § 405(d)(15)(A), (f)(12)(A)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-421, 2681-431; Pub. L. 110-315, title IV, § 408, Aug. 14, 2008, 122 Stat. 3223; Pub. L. 113-128, title V, § 512(n)(1), July 22, 2014, 128 Stat. 1710.)

### Editorial Notes

#### REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subssecs. (b)(1)(B)(ii) and (c)(1)(A), is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as amended. Part C of title I of the Act is classified generally to part C (§ 6391 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

#### PRIOR PROVISIONS

A prior section 1070d-2, Pub. L. 89-329, title IV, § 418A, as added Pub. L. 96-374, title IV, § 406, Oct. 3, 1980, 94 Stat. 1411, related to secondary and postsecondary high school equivalency programs and college assistance migrant programs, prior to the general revision of this part by Pub. L. 99-498.

Another prior section 1070d-2, Pub. L. 89-329, title IV, § 418A, as added Pub. L. 94-482, title I, § 125, Oct. 12, 1976, 90 Stat. 2096; amended Pub. L. 96-49, § 5(a)(6), Aug. 13, 1979, 93 Stat. 352, provided for the Educational Information Centers program, prior to repeal by Pub. L. 96-374, title I, § 101(b), Oct. 3, 1980, 94 Stat. 1383. See section 1070d-1c of this title.

A prior section 1070d-3, Pub. L. 89-329, title IV, § 418B, as added Pub. L. 94-482, title I, § 125, Oct. 12, 1976, 90 Stat. 2097, related to administration by States of Educational Information Centers program, prior to repeal by Pub. L. 96-374, title I, § 101(b), Oct. 3, 1980, 94 Stat. 1383, eff. Oct. 1, 1980.

#### AMENDMENTS

2014—Subsecs. (b)(1)(B)(ii), (c)(1)(A). Pub. L. 113-128 substituted “section 3222 of title 29” for “section 2912 of title 29”.

2008—Subsec. (b)(1)(B)(i). Pub. L. 110-315, § 408(1)(A), substituted “immediate family” for “parents”.

Subsec. (b)(3)(B). Pub. L. 110-315, § 408(1)(B), inserted “(including preparation for college entrance examinations)” after “junior college program”.

Subsec. (b)(5). Pub. L. 110-315, § 408(1)(C), struck out “weekly” before “stipends”.

Subsec. (b)(7). Pub. L. 110-315, § 408(1)(D), struck out “and” after semicolon.

Subsec. (b)(8). Pub. L. 110-315, § 408(1)(E), inserted “(such as transportation and child care)” after “services” and substituted “; and” for period at end.

Subsec. (b)(9). Pub. L. 110-315, § 408(1)(F), added par. (9).

Subsec. (c)(1)(A). Pub. L. 110-315, § 408(2)(A)(i), substituted “immediate family” for “parents” and struck out “(or such part’s predecessor authority)” before “or section 2912”.

Subsec. (c)(1)(B). Pub. L. 110-315, § 408(2)(A)(ii)(I), inserted “to improve placement, persistence, and retention in postsecondary education,” after “services” in introductory provisions.

Subsec. (c)(1)(B)(i). Pub. L. 110-315, § 408(2)(A)(ii)(II), substituted “career, and economic education or personal finance” for “and career”.

Subsec. (c)(1)(E) to (G). Pub. L. 110-315, § 408(2)(A)(iii)–(vi), struck out “and” at end of subpar. (E), added subpar. (F), redesignated former subpar. (F) as (G) and, in par. (G), substituted “essential supportive services (such as transportation and child care)” for “support services”.

Subsec. (c)(2)(A). Pub. L. 110-315, § 408(2)(B)(i), struck out “and” after semicolon.

Subsec. (c)(2)(B). Pub. L. 110-315, § 408(2)(B)(ii), substituted “, and coordinating such services, assistance, and aid with other non-program services, assistance, and aid, including services, assistance, and aid provided by community-based organizations, which may include mentoring and guidance; and” for period at end.

Subsec. (c)(2)(C). Pub. L. 110-315, § 408(2)(B)(iii), added subpar. (C).

Subsec. (e). Pub. L. 110-315, § 408(3), substituted “section 1070a-11(c)(2)” for “section 1070a-11(c)(1)”.

Subsec. (f)(1), (2). Pub. L. 110-315, § 408(4), substituted “\$180,000” for “\$150,000”.

Subsecs. (g) to (i). Pub. L. 110-315, § 408(6)–(8), added subssecs. (g) to (i) and struck out former subssecs. (h) and (i), which related to data collection and to authorization of appropriations.

Pub. L. 110-315, § 408(5), redesignated subssecs. (g) and (h) as (h) and (i), respectively.

1998—Subsecs. (b)(1)(B)(ii), (c)(1)(A). Pub. L. 105-277, § 101(f) [title VIII, § 405(f)(12)(A)], struck out “section 1672 of title 29 or” before “section 2912 of title 29”.

Pub. L. 105-277, § 101(f) [title VIII, § 405(d)(15)(A)], substituted “section 1672 of title 29 or section 2912 of title 29” for “section 1672 of title 29”.

Subsec. (d). Pub. L. 105-244, § 408(a), inserted “that the grant recipient will coordinate the project, to the extent feasible, with other local, State, and Federal programs to maximize the resources available for migrant students, and” after “contains assurances” in introductory provisions.

Subsec. (e). Pub. L. 105-244, § 408(d), substituted “in accordance with section 1070a-11(c)(1) of this title” for “authorized by subpart 4 of this part in accordance with section 1070d(b)(2) of this title.”

Subsec. (g). Pub. L. 105-244, § 408(c)(2), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 105-244, § 408(b), substituted “1999” for “1993” in pars. (1) and (2).

Subsec. (h). Pub. L. 105-244, § 408(c)(1), redesignated subsec. (g) as (h).

1994—Subsec. (b)(1)(B)(ii). Pub. L. 103-382, § 391(e)(1), substituted “part C” for “subpart 1 of part D of chapter 1”.

Subsec. (c)(1)(A). Pub. L. 103-382, § 391(e)(2), substituted “part C” for “subpart 1 of part D of chapter 1” and inserted “(or such part’s predecessor authority)” after “1965”.

1992—Subsec. (b)(1). Pub. L. 102-325, § 405(a)(1)(A), added par. (1) and struck out former par. (1) which read as follows: “recruitment services to reach persons who are 17 years of age and over, who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who lack a high school diploma or its equivalent;”.

Subsec. (b)(4). Pub. L. 102-325, § 405(a)(1)(B), inserted comma after “concerning” and after “obtaining”.

Subsec. (c). Pub. L. 102-325, § 405(a)(2), (b), designated existing provisions as par. (1), redesignated former par. (1) as subpar. (A) and amended it generally, redesignated par. (2) and its subpars. (A) to (E) as subpar. (B) and cls. (i) to (v), respectively, redesignated par. (3) and its subpars. (A) to (H) as subpar. (C) and cls. (i) to (viii), respectively, redesignated pars. (4) to (6) as subpars. (D) to (F), respectively, and added par. (2). Prior to amendment, par. (1) read as follows: “outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who meet the minimum qualifications for attendance at a college or university;”.

Subsec. (e). Pub. L. 102-325, § 405(c), substituted “Five-year” for “Three-year” in heading and “5-year” for “3-year” in text.

Subsec. (g). Pub. L. 102-325, § 405(d), amended subsec. (g) generally, substituting present provisions for former provisions which authorized appropriations for fiscal years 1987 through 1991.

1987—Subsec. (g). Pub. L. 100-50 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “There is authorized to be appropriated for this

part \$9,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113-128, set out as an Effective Date note under section 3101 of Title 29, Labor.

##### EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 101(f) [title VIII, § 405(d)(15)(A)] of Pub. L. 105-277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(12)(A)] of Pub. L. 105-277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105-277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of this title.

##### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99-498, see section 27 of Pub. L. 100-50, set out as a note under section 1001 of this title.

#### SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

### § 1070d-31. Statement of purpose

It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

(Pub. L. 89-329, title IV, § 419A, as added Pub. L. 99-498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1343.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 1070d-31, Pub. L. 89-329, title IV, § 419A, as added Pub. L. 98-558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2900; amended Pub. L. 99-145, title XVI, § 1627(a), Nov. 8, 1985, 99 Stat. 779, provided statement of purpose for Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99-498.

### § 1070d-32. Repealed. Pub. L. 102-325, title IV, § 406(a), July 23, 1992, 106 Stat. 508

Section, Pub. L. 89-329, title IV, § 419B, as added Pub. L. 99-498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1343, defined terms used in this subpart.

A prior section 1070d-32, Pub. L. 89-329, title IV, § 419B, as added Pub. L. 98-558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2900, defined terms used in this subpart, prior to the general revision of this part by Pub. L. 99-498.

### § 1070d-33. Scholarships authorized

#### (a) Program authority

The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement

and who show promise of continued academic achievement.

#### (b) Period of award

Scholarships under this section shall be awarded for a period of not less than 1 or more than 4 years during the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this subchapter. The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 1070d-34(b) of this title that are attributable to such excess; and

(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.

#### (c) Use at any institution permitted

A student awarded a scholarship under this subpart may attend any institution of higher education.

#### (d) Byrd Scholars

Individuals awarded scholarships under this subpart shall be known as “Byrd Scholars”.

(Pub. L. 89-329, title IV, § 419C, as added Pub. L. 99-498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102-325, title IV, § 406(b), July 23, 1992, 106 Stat. 508; Pub. L. 103-208, § 2(b)(28), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 111-39, title IV, § 401(a)(7), July 1, 2009, 123 Stat. 1939.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 1070d-33, Pub. L. 89-329, title IV, § 419C, as added Pub. L. 98-558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2900; amended Pub. L. 99-145, title XVI, § 1627(b), Nov. 8, 1985, 99 Stat. 779, authorized the award of scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99-498.

##### AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111-39 inserted “and” after semicolon at end.

1993—Subsec. (b). Pub. L. 103-208 substituted “for a period of not less than 1 or more than 4 years during the first 4 years of study” for “for a period of not more than 4 years for the first 4 years of study” and inserted at end “The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

“(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 1070d-34(b) of this title that are attributable to such excess;

“(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.”

1992—Subsec. (b). Pub. L. 102-325 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as fol-